

(approved November 14, 2003)

**BOARD OF BEHAVIORAL SCIENCES  
FULL BOARD  
MEETING MINUTES**

**AUGUST 21, 2003**

**PHILLIPS GRADUATE INSTITUTE  
5445 BALBOA BLVD  
ENCINO, CA**

**MEMBERS PRESENT**

Karen Pines, MFT Member, Board Chair  
Mark Burdick, LEP Member, Vice Chair  
Robert Gerst, Public Member  
Catherine Kay, Public Member  
Peter Manoleas, LCSW Member  
Glynis Morrow, Public Member  
Jane Nathanson, MFT Member  
Howard Stein, Public Member  
Susan Ulevitch, LCSW Member

**MEMBERS ABSENT**

Roberto Quiroz, Public Member

**STAFF PRESENT**

Sherry Mehl, Executive Officer  
Kristy Schieldge, Legal Counsel  
Anita Scuri, Legal Counsel  
Julie McAuliffe, Administrative Analyst

**GUEST LIST ON FILE**

The meeting was called to order at approximately 9:50 a.m.

**1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM**

Ms. McAuliffe called the roll and a quorum was established.

**2. APPROVAL OF MINUTES**

MARK BURDICK MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO APPROVE THE MINUTES OF APRIL 24, 2003.

Glynis Morrow and Jane Nathanson abstained.

### **3. APPROVAL OF MINUTES**

HOWARD STEIN MOVED, MARK BURDICK SECONDED, AND THE BOARD CONCURRED TO APPROVE THE MINUTES OF APRIL 25, 2003.

Glynis Morrow and Jane Nathanson abstained.

### **4. CHAIRPERSON'S REPORT**

Ms. Pines stated that Board member Robert Gerst has been assigned to the Ad Hoc Disciplinary Guidelines Committee and the Consumer Services / Consumer Protection Committee.

Ms. Pines then indicated that Ms. Mehl had made progress on the issue of Educational Therapists and the Board would be discussing this issue later in the day. She then commended Ms. Mehl for all her hard work and maintaining all of the Board's services during the Budget cuts.

Ms. Pines recognized the absence of David Fox, who had passed away. She indicated that the Board would miss his presence at their meetings.

Mr. Manoleas questioned the organization of this meeting's agenda. Ms. Pines indicated that due to the Budget crisis, the Board had decided to condense this meeting to a one-day meeting in case the Budget had not been signed and the Board would not be able to reimburse Board members or obtain a hotel contract for the meeting space. Ms. Mehl thanked Jose Luis Flores, Director of the Marriage and Family Therapist program, for his gracious invitation to host this meeting at Phillips Graduate Institute.

### **5. EXECUTIVE OFFICER'S REPORT**

#### **a. Budget Update**

The current Analysis of Fund Condition and Expenditure Report were included in the meeting materials. Ms. Mehl indicated that the Board has been able to maintain its level of functioning in light of the Budget cuts and funding loans. If the remaining Fund Balance is left untouched, we will research the possibility of lowering renewal fees. The Board was mandated to reduce their Budget by 5% and to reduce the Travel Budget by 35%. The Board was able to meet these reductions without ending the 2002/2003 fiscal year in a deficient. The second round of mandated reductions applied to personnel. Ms. Mehl indicated that the Board has lost four full time vacant positions and has had to reduce the number of proctors who assist at the examinations. The Board has been extremely fortunate and has not had to lay off employees. Unfortunately, the Board was not exempt from the salary savings portion of the Budget and, although she is able to use savings from employees who are off on medical leave, Ms. Mehl indicated that she may have to begin lay offs in the future if additional reductions are mandated. Staff are team players and are assuming other duties in the office as needed. Mr. Manoleas asked if there are timeframes that the Board has set for processing certain functions that could be reviewed and possibly extended. Ms. Mehl indicated that this may be an issue in the future but for the time being, staff is able to maintain the workload.

Mr. Gerst asked that a discussion regarding general enforcement activity and costs as well as the Division of Investigation (D of I) functions and costs be discussed at a future meeting. Ms. Mehl stated that the fees to D of I are paid two years in arrears. In addition, enforcement staff receives numerous complaints that staff now investigates. All complaints, whether jurisdictional or non-jurisdictional, must be logged in to the computer system and the statistics for the number of complaints received includes these types of non-jurisdictional complaints. Also, D of I is very overworked and understaffed and is taking a long time investigating cases. Some very serious cases go directly to the Attorney General's office and staff is assisting them with the materials they would normally receive from D of I. In addition, the Enforcement staff meets and discusses cases with experts to determine if the case should move forward.

Ms. Mehl had also provided an update on the Professional Licensing and Enforcement Management System. The Department of Consumer Affairs has expressed their interest in implementing this system and had submitted a Budget Change Proposal to the Department of Finance (DOF). Due to the statewide Budget difficulties, DOF has not reviewed this proposal.

b. Miscellaneous Matters  
1. Website Statistics

The most current statistics were included in the meeting materials. The site continues to be visited frequently and updated weekly.

2. Consumer Access

The meeting materials included a sample of the Online Complaint Form now available on our Website.

**6. REVIEW AND APPROVAL OF 2004 BOARD MEETING CALENDAR**

The Board reviewed and discussed the draft calendar. After discussion, the Board tentatively agreed on the following dates and locations:

February 19-20, 2004	San Diego
May 20-21, 2004	Sacramento
September 9-10, 2004	Los Angeles Area
November 11-12, 2004	Bay Area

Mr. Manoleas suggested that the Board meet in Central California. Ms. Pines indicated that traveling to this location may be complicated due to flying difficulties and weather safety issues.

Ms. Mehl asked that all Board members provide staff with their unavailable dates in 2004.

**7. REVIEW AND POSSIBLE CHANGES TO PROGRAM CERTIFICATION FORMS AND ANNUAL PROGRAM UPDATE FORM USED BY SCHOOLS WITH ACCREDITED OR APPROVED MARRIAGE AND FAMILY THERAPIST DEGREE PROGRAMS**

Mr. Manoleas had requested that these forms be included for review. He indicated that he had requested this in order for the Board to continue to familiarize themselves with the forms used

for verification and description of coursework and to gain a further understanding of what is taught.

**8. REVIEW BUSINESS AND PROFESSIONS CODE SECTION 4980.43 REGARDING PERSONAL PSYCHOTHERAPY CREDIT FOR MARRIAGE AND FAMILY THERAPIST TRAINEES AND INTERNS**

Mr. Manoleas had requested that this issue be discussed. The Marriage and Family Therapist Board members indicated they had felt this experience was very important to their professionalism. Ms. Mehl added that when this legislation was implemented, the author of the legislation felt it was imperative to the profession to have individuals receive personal therapy.

Ms. Ulevitch indicated she thought that supervised practice was more important and that personal psychotherapy should not be applied to the qualifications for licensure.

Ms. Mehl stated that the practice of Marriage and Family therapy and Licensed Clinical Social Work are very separate professions and the experience requirements are different and should not be compared.

Mr. Manoleas commented that an understanding of self is better and understanding of therapy from another perspective is good, but he still insisted there was no evidence that proved that harm was reduced by receiving personal psychotherapy. He indicated he still felt that consumer protection would be better served if Marriage and Family Therapist Trainees and Interns gained all of their hours of experience under supervision.

Ms. Mehl indicated this is an optional means of gaining hours and is not a mandated requirement.

Mr. Gerst stated he felt that personal psychotherapy was an important component to the profession.

Ms. Mehl stated that she has not received any comments on this issue from consumers, professional associations, or legislators.

Ms. Nathanson stated that in the scheme of the required 3,000 hours of experience, the amount of hours that an applicant can claim toward licensure for personal psychotherapy was minuscule.

Katherine Wenger from Pepperdine University stated students have shared that obtaining their own personal psychotherapy has assisted them with their clients.

Burt Winer indicated that schools encourage their students to obtain the personal psychotherapy to gain a hands on experience of the therapeutic experience.

CATHERINE KAY MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED NOT TO MAKE ANY CHANGES TO THE HOURS OF PERSONAL PSYCHOTHERAPY ALLOWED TO BE CLAIMED IN THE STATUTE.

**9. REVIEW AND POSSIBLE ACTION ON PROPOSED AMENDMENTS TO TITLE 16, CALIFORNIA CODE OF REGULATIONS SECTIONS 1887, 1887.2, AND 1887.3 TO REMOVE SELF STUDY DEFINITION, EXCEPTION, AND HOUR LIMITATION**

Ms. Pines explained that since the Board had amended the regulation to allow all of the required 36 hours of continuing education to be gained through interactive means, staff has received numerous inquiries asking for an explanation of the differences between these courses and self study courses. After researching the issue, staff determined that the only difference is the way the verification is submitted to the provider. Therefore, staff had recommended that the definition of self study is no longer needed. The Board discussed this issue and directed staff to re-draft the proposed language to include self-assessment in paragraph (a) and bring the draft back to the Board in November.

HOWARD STEIN MOVED, CATHERINE KAY SECONDED, AND THE BOARD CONCURRED TO HAVE STAFF AND LEGAL DRAFT LANGUAGE TO INCLUDE SELF-ASSESSMENT TESTING IN PARAGRAPH (a) AND BRING THE DRAFT LANGUAGE BACK TO THE BOARD IN NOVEMBER.

The meeting recessed at approximately 12:15 p.m.

The meeting reconvened at approximately 1:10 p.m.

**10. DISCUSSION ON THE ISSUES REGARDING EDUCATIONAL THERAPISTS**

Ms. Mehl stated that letters were sent to schools that offer a degree or certification in Educational Therapy and these letters as well as the responses were included in the meeting materials. She indicated that she has researched this issue at length, reviewed advertisements, and has contacted Educational Therapist schools some to determine the services being performed to obtain a generalized sense of the functions performed by Educational Therapists. In addition, she and Ms. Pines have met with representatives of the professional association to further obtain information on his issue. The main issue seems to be whether educational therapists are performing services that fall within the scope of practice of a Licensed Educational Psychologist (LEP). There are individuals who are performing some functions that have neither the certification nor a license.

Ms. Mehl then expressed that she had asked Dr. Burdick to provide additional information. Dr. Burdick stated the scope of practice is problematic in a private versus a public setting. Requirements such as supervision are not outlined for an educational therapist and in turn may open a licensed individual up to civil litigation. Another issue is the impression given to the general public that these non-licensed individuals are qualified to perform services for which a license is required. The Board is hoping to open the lines of communication with these individuals and identify similarities and differences within these professions.

Another important point Ms. Mehl mentioned was the fact that nowhere in law is there a definition of an educational therapist, therefore these individuals are not bound by the laws regarding confidentiality and mandated reporting of situations. These are very serious situations and put parents at risk.

She had discussed this issue with Senator Vasconcellos' office and suggested that a definition be added to the education code. This will begin the process of identifying a scope of practice for this profession, which will be necessary for this addition.

Sandra Mosk, President of the Association of Educational Therapists, provided the Board with an overview of this profession. She indicated that she has been also working with legislators to introduce language to identify educational therapists in the law. She then stated that educational therapy is a new young profession and, while some of the functions are similar to that of a LEP, there are other functions that are very different. Educational therapists often times receive the assessment and diagnosis performed by an LEP and design a program in the academic setting that will address the findings of the assessment. Although she understood the Board's concern, she did not think that there was much overlap in the professions and the thrust of educational therapists is in an educational setting.

Ms. Mehl indicated that one of the problems is that some individuals obtain the certificate and are practicing independently with no jurisdictional oversight. Ms. Mosk agreed and indicated that the professional association is aware of this problem and their ethics committee does react to these violations.

Dr. Burdick indicated that it was helpful to obtain this information and stated that her explanation of the profession does overlap with that of a licensee. He thought it would be supportive to create some true boundaries and recognition of how the two professions overlap.

Ms. Mosk requested a copy of the recent occupational analysis for LEPs and stated that it would be very helpful in identifying similarities and differences.

Ms. Mehl stated that the fine line needs to be identified and outlined. Once that occurs, these outlines will assist in creating legislation to identify the educational therapist profession and separate the professions.

Ms. Mehl then stated that all the laws that relate to LEP are going to be reviewed by the Board and amended as necessary and the scope of practice may be something that needs adjustment.

Mr. Manoleas asked Dr. Burdick to identify the specific tests that can only be administered by LEPs. Dr. Burdick identified them and then indicated that state-by-state tests are different and not applicable in each state. He then offered to provide Ms. Mehl with a listing of authorized tests given only by LEPs.

CATHERINE KAY MOVED, SUSAN ULEVITCH SECONDED, AND THE BOARD CONCURRED TO DIRECT STAFF TO REVIEW SCOPE OF PRACTICE ISSUES AND PROVIDE CLARIFICATION AT THE FEBRUARY 2004 MEETING.

## **11. DISCUSSION REGARDING MARRIAGE AND FAMILY THERAPIST INTERN SUPERVISION**

Ms. Pines had requested that this issue be discussed. She indicated supervisors are concerned that there is no recourse for those situations when they suspect that a Trainee or Intern is unqualified for the profession. Ms. Mehl indicated that supervisors may report unqualified Trainees and Interns to the Board. She then discussed Title 16, California Code of Regulations Section 1833.1 and the responsibilities of supervisors.

Ms. Scuri added that such reports to the Board have qualified immunity under the Civil Code.

MARK BURDICK MOVED, PETER MANOLEAS SECONDED, AND THE BOARD CONCURRED TO PUBLICIZE AND MAKE MORE VISIBLE THE RIGHTS AND OBLIGATIONS OF SUPERVISORS IN THE NEWSLETTER, THE WEBSITE, AND PROFESSIONAL ASSOCIATIONS PUBLICATIONS.

## **12. 2003 LEGISLATION THAT IMPACTS THE BOARD**

Ms. Mehl provided the Board with an overview on the status of legislation that would impact the Board.

Mr. Gerst asked that staff provide more detail in the future on whether amendments were made to legislation proposals based on the Board's position and suggested amendments.

## **13. LICENSING COMMITTEE**

### **1. APPROVAL OF APRIL 24, 2003 MINUTES**

Due to lack of a quorum, the approval of the minutes was deferred to the November meeting.

## **14. EXAMINATION COMMITTEE**

### **1. APPROVAL OF APRIL 24, 2003 MINUTES**

PETER MANOLEAS MOVED, KAREN PINES SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE APRIL 24, 2003 MINUTES

## **15. CONSUMER SERVICES / CONSUMER PROTECTION COMMITTEE**

### **1. APPROVAL OF APRIL 25, 2003 MINUTES**

Due to lack of a quorum, the approval of the minutes was deferred to the November meeting.

## **16. EDUCATION COMMITTEE**

### **1. APPROVAL OF APRIL 25, 2003 MINUTES**

PETER MANOLEAS MOVED, MARK BURDICK SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE APRIL 25, 2003 MINUTES

## **17. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

The Board did not receive any comments from the public.

KAREN PINES MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO ADJOURN THE MEETING.

The meeting adjourned at approximately 2:45 p.m.